Solicitor General Hugh M. Dorsey began at 3:30 o'clock Friday afternoon, August 22, 1913, the final argument in the Leo Frank case, and he told the jurors as he started that they would not respect him if he slurred things over in order to please even them.

"Your honor," he began, "I want to thank you for the many courtesies you have extended me and for the unlimited time you have given me in this argument, and, gentlemen of the Jury, I want to commiserate with you on your situation, but as his honor has told you, this is an important case."

"It is important to society, to each and every one of you and of us, and do not feel like slurring over any point of it. Although it would be convenient for you, I know you would not have me do it, and would not respect me If I did."

"A case that has consumed all this time and that is of this magnitude and importance can't be argued in a short time. The case is an important one, too, as the crime is hideous, the crime of a demoniac, and a crime that has demanded the vigorous, honest, earn at and conscientious efforts of these detectives and of myself, must demand the same vigorous, honest and earnest and conscientious effort of the jurors.

"The case is extraordinary because of the learned counsel pitted against me, Arnold and Rosser and Herbert Haas. It is extraordinary because of the defendant, it is extraordinary because of the manner in which it has been argued and the means and methods purged by the defense."

"They have had two of the ablest lawyers in the country on this case, Luther Zeigler Rosser and Reuben Rose Arnold, and I know, too, that Herbert Haas is an able lawyer, "

"They have had Rosser, the rider of the winds and the stirrer of the storm, and Arnold, (who I can say it, because I love him), is as mild a man, as ever cut a throat or scuttled a ship."

Abuse Plentiful.

"They have abused me, they have abused the detective department; they have heaped so much calumny on me that the mother of the defendant was constrained to arise In their presence and denounce me as a dog."

"Well, there's an old adage, and it's true; that says, When did any thief ever feel the halter draw with any good opinion of the law?'" and, continued the solicitor, looking at the defendant, "I don't want your approval. I don't seek it; I don't want you to put the stamp of your approval on me."

"Oh, prejudice and perjury. They say that is what this case is built on and they use that stereotyped phrase until it fatigues the mind to think about It. Don't let this purchased indignation disturb you. Oh, they ought to have been indignant; they were told to play the part."

"Gentlemen, do you think that these detectives and I were controlled by prejudice in this case. Would we, the sworn officers of the law, have sought to hang this man on account of his race and passed over the negro, Jim Conley."

"Was it prejudice when we arrested Gantt, when we arrested Leo? When we arrested others? No, the prejudice came when we arrested this man and never until he was arrested was there a cry of prejudice."

"These gentlemen over there were disappointed when we did not pitch our case along that line, but not a word emanated from this side, showing any prejudice on our part, showing any feeling against Jew or Gentile".

"We would not have dared to come into this presence and ask the conviction of a man because he was a Gentile, a Jew or a negro. Oh, no, two men ever had any greater pleasure shown on their faces than Mr. Arnold and Mr. Rosser when they started to question Kendley and began to get before the court something about prejudice against

the Jews. They seized with avidity the suggestion that Leo Frank was a Jew."

The Defense Responsible.

"Remember, they put it before this court and we did not. The word Jew never escaped our lips. I say that the race this man comes from is as good as ours; his forefathers were civilized and living in cities and following laws when ours were roaming at large in the forest and eating human flesh. I say his race is just as good as ours, but no better."

"I honor the race that produced Benjamin Disraeli, the greatest of British statesmen; that produced Judah P. Benjamin, as great a lawyer as England or America ever saw; I honor the Strauss brothers, I roomed with one of his race at college (H. Alexander), one of my partners is of his race, I served on the board of trustees of Grady hospital with Mr. Hirsch, and I know others, too many to count, but when Lieutenant Becker wished to make way with his enemies, he sought men of this man's race."

"Then you, will recall Abe Hummell, the rascal lawyer, and Reuff, another scoundrel, and Schwartz, who killed a little girl in New York, and scores of others, and you will find that this great race is as amenable to the same laws as any others of the white race or as the black race is."

"They rise to heights sublime, but they also sink to the lowest depths of degradation!"

The Matter of "Reasonable Doubt"

"I want to read you something further on what my friend, Arnold, read you about a reasonable doubt' and show you a little more than he would consent to show you," continued the solicitor, leaving the question of Frank's race."

"I want to tell you about this reasonable doubt, the thing that has caused text-book writers and judges to hem and haw when they tried to define it, and that made one text-writer say that a man trying to define it, would be guilty of tautology, despite himself,' that he would go round and around in a circle and use the same words in trying to define it."

"This reasonable doubt proposition is as plain as the nose on your face and there is no use to get mixed up on it, you can just use plain common sense and find out what is a reason doubt."

Defines an Honest Doubt.

"You are not to doubt as jurors if you believe as men. There is the whole proposition. Such a doubt as would control your conduct in the highest duties of life, is the sort of doubt I refer to."

"It is not such a doubt as would show that the defendant might possibly be innocent, but it must be a genuine doubt. It Is not such a doubt as might release a friend. It must he an honest doubt. It must not be a fanciful doubt, not a doubt of a fanatic, or a super-sensitive person, but a common-sense doubt."

All the while Dorsey was busy turning the pages of many ponderous volumes, showing the authority upon which he made his definition of a reasonable doubt.

"Furthermore," he said, "a doubt need not always result in an acquittal. In that case all cases would result in acquittal. It must be such a doubt as to create a grave uncertainty. It is not a mere possible or imaginary doubt."

"This is the effective standard, because this reasonable doubt phrase is indefinable in mere words. It is incapable of definition, but a comprehension of it comes instantaneously upon hearing the words."

"Conviction can be established as well upon circumstantial evidence, as upon direct evidence. Eminent authority shows that in many cases circumstantial evidence is more certain than direct evidence."

"Conviction can be established better by a large number of witnesses giving circumstantial evidence and incidents pointing to guilt than by the testimony of a few witnesses who may have been eyewitnesses to the actual deed."

Both Kinds of Evidence.

"In this case we have both circumstantial evidence and admission. Hence, with reasonable doubt as a basis, the evidence shows such a consistency that a reasonable conclusion is all that is needed."

"This thing of reasonable doubt originated long ago when the accused was not allowed to be represented by counsel to defend him. In time the reasonable doubt will drop out. Our people are getting better and better about this all the time. The state is handicapped in all sorts of ways by this reasonable doubt proposition, and has to more than prove a man's guilt often
before a conviction can result."

"Let this fact take lodgment with you," said Dorsey, earnestly, as he leaned toward the jury and held aloft a convincing finger. "As jurors, you are yet but men. Circumstantial evidence is not the mysterious thing that it appears on the surface. It simply means this, that when you've got a thing, you've got it. Get a fact as a man and you have it as a juror. That's all."

No Fanciful Doubt.

"I know that you can get up an excuse of any kind which can be used as a doubt. But that must be outside the jury box. You must not acquit this man upon any fanciful or fanatical doubt. Your oath will not permit you to do it, and I know you will not go back on your oath."

"You can't get at a verdict by mathematics, but you can get at it by a moral certainty".

"People sometimes say that they will not convict on circumstantial evidence. That is the merest bosh. Authorities show that circumstantial evidence is the evidence. People are improving about this. Yet juries are often reluctant upon this point. But juries should not hesitate at lack of positive evidence. The almost unerring evidence. The almost unerring indication of circumstantial evidence should control. Otherwise, society is exposed to freedom in the commission of all sorts of the most horrible crimes. Circumstances which would warrant a mere conjecture of guilt are not warranted as the basis for a conviction, but when the evidence is consistent with all the facts in the crime, only a conviction can result."

At this point Mr. Dorsey took up the Durrant case, relating to the murder of two girls in a church in San Francisco, which Arnold had referred to previously. Arnold at once scented the scathing

attack which Dorsey intended to make upon his manner of presenting the detail of the Durrant case to the jury, and registered strenuous objection to certain correspondence which Dorsey proposed to make reference to. This correspondence consisted of a telegram received Thursday from a person in San Francisco and a letter received some four months ago.

Judge Roan would not permit the use of these documents.

Dorsey Ignores Arnold.

Arnold was lounging in the witness chair, and arose to his feet.

"I ask," he said, "why Dorsey wrote to San Francisco four months age to find out about this case?"

"Dorsey's reply was fiery and dramatic. He ignored Arnold, and waiting in a crouching position In front of the jury box, addressed himself to the Jurors."

"Because," I anticipated the use the defense would probably try to put this case to, and informed myself so that you might not be misinformed."

Dorsey intimated that Arnold had misrepresented the facts in the case to the jury. The moment was tense Immediately afterwards there was a general hub-bub of excitement in the courtroom and

Deputy Minor rapped for order. Dorsey called hoarsely for water.

Dorsey then read of the jury the entire case to show them where Arnold had, as he alleged, gone wrong on the facts.

Jurors Show Interest.

The similarity in detail between the Durrant case and the Frank case was striking. When Dorsey began the tedious reading of the legal record the jury became listless and paid small attention to it, but when he had read a few paragraphs each juror was leaning over in his seat and taking in every detail of the case.

Dorsey read the graphic 1895 story of how, William Henry Theodore Durrant, upon circumstantial evidence was convicted of the murder of (Minnie Williams and) Blanche Lamont in the Emmanuel Baptist church of San Francisco, California.

The facts in the Frank case were vividly recalled to mind as Dorsey read of how the girl had been missing and was found lying dead in the church tower, of how the friends of Durrant, who was an ardent church worker, flocked to testify that his character was unreproachable, and how the defendant had sought to establish his innocence by an alibi.

Alibi the Final Resort.

Upon the last point Dorsey made the comment that "an alibi is the last resort of a guilty man." At the same time Dorsey emphasized the statement that the defendant was "interested in religious work."

He stressed the part, telling of the nervousness of the defendant. He thought it a striking coincidence that Durrant should have called for bromo seltzer, while Frank wanted coffee. He dwelt upon the planted evidence of the girl's returned jewelry in a newspaper with two names written upon it to divert suspicion.

Dorsey stated that Durrant's previous character, as shown by the testimony introduced, was even better than that of Leo M. Frank.

He pointed out that while Durrant committed the crime in 1895, he did not go to the gallows until 1898.

He also proceeded to show that contrary to being dissatisfied with the jury's decision. In that case, the people of San Francisco were entirely satisfied. He also said that instead of the body being refused burial by all the churches, as Arnold had said, it was cremated by the boy's mother to keep it from being turned over to the surgical department of a medical college. Dorsey declared that, contrary to Arnold's statement, no minister dying later ever

confessed to the crime of which Durrant was convicted.

Durrant a Guilty Man.

"That is all poppycock he's telling you," said Dorsey. "There was never a guiltier man than Durrant and never a more satisfied community than that where the verdict of guilty was rendered."

"Arnold wouldn't mislead you, though," said Dorsey. "He was inaccurate in his statements. He is an honorable man."

"His honor was instructed," continued Dorsey, "but first I want to say a few things. I would not mislead you. It you think this man is innocent, acquit him. If you think he is guilty, put a rope around his neck. If he is guilty say so. I know that you will if you think so."

"Now the evidence about his good character is all right, but first let's prove that his character is good. The defense offered the witnesses testifying to his good character. We took the challenge. We believe we proved his character bad."

"But the law says that the proof of previous good character' will not stand in the way of conviction if the evidence indicates guilt."

Is This Greatness?

"Mr. Arnold, in his threats of asking for a mistrial, stood up this may be an attribute of a great lawyer, but I don't want to be great if this is what it takes and said before he ever heard the testimony of our witnesses that the testimony was a pack of lies of cracked-brain fanatics. We put up about twenty good honest girls. The defense called them cracked-brain fanatics. If those are the words of greatness, I don't want greatness."

"I know this case. And I know the conscience that beats in the breasts of honest men, I submit that character or no character, this evidence demands conviction. I am not so low that I would ask you to break this man's neck if I thought Jim Conley was guilty."

"I want to talk about these notes to the grand jury. The grand jury received notes from the outside trying to influence them in coming to their decision in the indictment of Conley. Owens said that Fleming wrote the notes."

Rosser objected to this, Judge Roan ruled for Rosser.

Will Never Indict Conley.

"I'll make it that Owens tried to instruct the grand jury, then," said Dorsey.

"Arnold also said," so continued Dorsey, "that Jim Conley had never been Indicted, No! And, what's more, he never will be! He is admitted accessory after the fact. You've got another solicitor general to get before you get an accusation against Jim Conley! I have my own conscience to keep, and I would not rest so well if I put a rope around the neck of Conley for the crime that Frank committed."

"Now, the law Is that evidence rules in spite of good character. But we hold that his character isn't even good."

"In showing this, we exercised the right of citing specific instances of bad character once, but on other occasions we saved Frank's wife and mother from the embarrassment. We simply put u p witnesses showing that his character was bad."

"They could have asked specific questions on cross-examination if they didn't believe that these witnesses were telling the truth. They could have brought out whether or not his character was good by specific instances from the witnesses, but mark you this they didn't dare to do it! They dared not to do it!"

Do They Know His as Well.

"You tell me of the testimony of the good people down on Washington Street and at the orphans

home and Dr. Marx! Do they know his character like the little girls who have worked at the pencil factory, but are no longer connected with the national pencil company and under his influence?"

"The trouble has been too much shenanigan and not enough honest dealing. Do you believe that Starnes and Rosser, in whose veins flows the same blood as that of the attorney, could get little girls to come up here and testify through prejudice? I tell you it is impossible."

"Jim Conley shot into that covey. If he didn't get em all, he flushed out Daisy Hopkins and C.B. Dalton, at least!"

"Now, gentlemen, if you are of good character and twenty witnesses were brought to testify that your character is bad, would you let your attorneys sit without asking for specific instances? No, I know you wouldn't. Yet three able counsel let twenty girls tell you that Frank's character was bad and that his character for lasciviousness, which, uncontrolled and uncontrollable, led him to kill Mary Phagan, was bad, and never asked them how they knew."

"Even among their own witnesses there was a leak. Do you remember Miss Jackson? What business did this man, the head of the pencil factory, have gazing in at the girls? Do you mean to tell me that

that's a part of his business? He had the foreladies and Darley who could do this for him, didn't he?"

What Was He Looking For.

"You heard the testimony of his going into the room with the girl. It may have been that he was looking to see if the coast was clear for this very purpose when he looked upon the girls dressing."

"Oh, me! In the room with Miss Carson! The judge wouldn't let me say how long they stayed in there, but he did let me show that they went in and came out. What the judge says is law, although I do not always understand!"

"Would you say that Frank was looking for flirters then?"

"Or, maybe this witness was just another one of Arnold's crack-brains!"

"Arnold said that he was going to ask a question of every girl who worked on the fourth floor. He didn't ask Miss Kitchens and there were others he didn't ask."

At this point the Judge asked Dorsey if he had nearly completed his speech.

"Your honor, my time is unlimited," said Dorsey, "and as yet I have not touched the case."

The afternoon session was then adjourned.